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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/710,434	07/10/2004	Carol Elise Pawlak	3090-02	4433
37101 7590 06/21/2007 LAW OFFICE OF MICHAEL P. EDDY MICHAEL P. EDDY 12526 HIGH BLUFF DRIVE, STE. 300 SAN DIEGO, CA 92130			EXAMINER DAVIS, CASSANDRA HOPE	
			ART UNIT 3611	PAPER NUMBER
			NOTIFICATION DATE 06/21/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/710,434

Applicant(s)

PAWLAK, CAROL ELISE

Examiner

Cassandra Davis

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 8 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 8, it is unclear if the "one ribbon" on line 2 is the same as the "ribbon" recited in claim 6, line 3.

In claim 10, it is unclear what is meant by the phrase "one or more gift items are accommodated in one or more said ribbons".

In claim 10, it is unclear what element corresponds to the claimed "gift item".

Specification

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the gift item

recited in claim 10 does not have proper antecedent basis in the specification.

Drawings

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims.

Therefore, the decorative accessory, gift items, trinkets, gifts, soaps, bath salts, jewelry, chocolates, nuts, and mints must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining

figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 6, 8, 9, are rejected under 35 U.S.C. 102(b) as being anticipated by "Merry Cookies; sample the latest batch of winning recipes in CNY's annual holiday contest", THE POST STANDARD, December 9, 1998.

7. The Merry Cookies article teaches a decorative holder for cookies comprising a stack of cookies wrapped with plastic wrap and tied with a pretty ribbon. The stack of cookies also has a laminated card tied thereon.

The examiner considers the cookies to correspond to the claimed baked goods, the plastic wrap to correspond to the claimed sheet of decorative material, and the card to correspond to the decorative accessory affixed to the ribbon.

8. With respect to claim 8, the card is affixed to the ribbon.
9. With respect to claims 9, the card corresponds to the trinket.

Claim Rejections - 35 USC § 102

10. Claims 1, 8, 9, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Haase et al., US 4294350.
11. Haase et al. teaches a shower party name plate and favor comprising a sheet of decorative material 11 wrapped around a plurality of candy 12, a ribbon 20 tied around the decorative material 11, and a decorative accessory 15 is also tied around the decorative material.
12. With respect to claim 8, the decorative accessory is tied to the decorative material using the ribbon 20.
13. With respect to claim 9, the decorative accessory 11 is trinket or gift.
14. Claims 6, 8, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Cohen-Diederiksen, US Design 501976 in view Martinez, US Design 403558.

15. Cohen-Diederiksen teaches a combined cookie bouquet and inedible holder therefor comprising a sheet of transparent decorative material wrapped around a plurality of cookies (baked good) on a stick, a ribbon tied around the decorative material and a card secured to the ribbon.

Claim Rejections - 35 USC § 103

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claims 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen-Diederiksen, US Design 501976 in view Martinez, US Design 403558.

18. Cohen-Diederiksen does not teach a soufflé cup between the baked good and the decorative material.

19. Martinez teaches a combine cake and/or muffin bouquet and inedible holder thereof comprising a plurality of cake or muffins in a cup, wherein the cups are mounted to stick and arranged to resemble a bouquet.

20. It would have been obvious to one having ordinary skill in the art at the time this invention was made to substitute the cookies of the arrangement taught by Cohen-Diederiksen with cake or muffins in a cup as taught by Martinez to provide a means to decoratively display the cupcake and/or muffins.

21. Claims 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen-Diederiksen, US Design 501976 in view James, US 2736115.

22. James teaches a wrapped package 20 having a ribbon 20, bow 12 and 14, a card 24, and ornaments 38 and 44. It would have been obvious to one having ordinary skill in the art at the time this invention was made to construct the bouquet gift taught by Cohen-Diederiksen with an ornament as taught by James to provide a means to enhance the appearance of the bouquet well as provide item related to the reason for the gift.

Conclusion


23. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cassandra Davis whose telephone number is 571-272-6642. The examiner can normally be reached on Monday-Friday 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Cassandra Davis
Primary Examiner
Art Unit 3611

CD
June 7, 2007